REMARKS

This responds to the Office Action mailed on <u>April 1, 2005</u>.

Claims <u>1-22</u> are presently pending in this application.

§103 Rejection of the Claims

Claims 1, 6, 10 and 15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Haruki (U.S. Publication No. 2001/0013099) in view of Goldick (U.S. Publication No. 2002/0123992). It is of course fundamental that in order to sustain an obviousness rejection that each and every step or element in the rejected claim must be taught or suggested in the proposed combination of references. It is also noted that any proposed combination of references must be capable of being achieved, must not run contrary to the teachings of the individual references, and must be motivated to be obtained from one of ordinary skill in the art after reading the individual references.

First Applicant notes that Goldick is directed to carrying and maintaining versioning information with an object. The purpose of Goldick is to eliminate the need to maintain persistent log information about an object in separate storage from that object. In other words, metadata associated with versioning information is carried with an object in Goldick. This point is illustrated throughout Goldick and can be visualized in FIG. 2 of Goldick.

Haruki is directed to a software management licensing system where a status of a license is determined by checking a separate secret storage area of an electronic device for a license management flag. (*E.g.,* Haruki, para. 34 and 35; FIGS. 1, 4, 6, *etc.*) Haruki intentionally keeps metadata about a license separate and apart from the license. It is this separateness of data in Haruki that provides Haruki its benefits in license management.

Accordingly, one of ordinary skill in the art would not have been motivated to combine Goldick with Haruki, because Goldick is directed to combining information in a same storage area (the object) and Haruki is directed to separating information in different storage areas (the license is stored separately from the license flag).

Additionally, Applicants would like to point out that the proposed combination of Haruki and Goldick does not work in the manner suggested by the Examiner. That is, a combination of Haruki and Goldick produces a license having a license flag carried with the license; such an arrangement defeats the core teachings of Haruki, which is to separately maintain these items apart from one another. Therefore, the Haruki and Goldick combination is not permissible.

Furthermore, even assuming Haruki and Goldick can be combined, the proposed combination still fails to teach an "inclusion or exclusion identifier," which is positively recited in Applicants' independent claims 1, 15, and 22. The Examiner has recognized that Haruki fails to teach the above-cited limitation and therefore relies on Goldick for this teaching. Specifically, the Examiner has cited the table information presented in Goldick on pages 5-7.

In the table of Goldick, properties associated with objects are defined for purposes of illustrating Goldick. One property is referred to as an "inclusion list" and another property is referred to as an "exclusion list." The "inclusion list" property is defined as a listing of other properties, which if updated will cause the current contents of a version-specific property to be set to empty or null. In a sense, the "inclusion list" is reset property for contents of another property. The "exclusion list" property is defined as the opposite of the "inclusion list." Thus, the "exclusion list" properties override "inclusion list" properties and prevent the current contents of a version-specific property from being reset to empty or null.

The first thing Applicants note is that the use of the terms "inclusion" and "exclusion" within Goldick have very specific meanings that actually appear to be counter intuitive to how one would expect these terms to be used in the normal sense. That is, the inclusion performs resets on properties and the exclusion prevents resets on properties. In fact, if "inclusion" and "exclusion" are used in the specific and unique manner in which the Goldick reference defines these terms, then "inclusion" serves as a reset operation on information and "exclusion" serves as a preservation of existing information.

The mere fact that Goldick recites a same term does not mean that the term is the same as Applicants' term. Furthermore, Applicants assert that Goldick has defined and used these terms in a very specific manner that is unique to Goldick. Therefore, it is improper for the Examiner to expand that definition in view of the unique manner in which Goldick defines these terms

because such an expansion will run contrary to the teachings of Goldick and is not permissible, if the Examiner is seeking to rely on Goldick for the present rejections.

More specifically, there is no teaching or suggestion of a teaching in Goldick, where an "inclusion identifier" is used for "registering software commands." Furthermore, there is not teaching or suggestion of a teaching in Goldick, where an "exclusion identifier" is used for "rejecting registration of software commands." But, these limitations are positively recited in Applicants' independent claims.

Accordingly, Applicants respectfully request that the Examiner reconsider the rejections and allow the present claims because there is no motivation to combine the two references; because any combination of the two references would run contrary to the teachings of the references; and because even if the two references are combined the resulting combination still fails to teach or suggest an "inclusion or exclusion identifier" used for "registering or rejecting software commands."

Claims 2-5, 9 and 11 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Haruki and Goldick as applied to claim 1 above, and further in view of Misra et al. (U.S. 6,189,146). Claims 2-5, 9, and 11 are dependent from independent claim 1. Thus, for the remarks presented above with respect to claim 1, the rejections of claims 2-5, 9, and 11 should be withdrawn.

Claims 7 and 8 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Haruki and Goldick as applied to claim 1 above, and further in view of Garst et al. (U.S. 6,188,995). Claims 7 and 8 are dependent from independent claim 1. Accordingly, for the remarks presented above with respect to claim 1, the rejections of claims 7 and 8 should be withdrawn.

Claim 12 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Haruki and Goldick as applied to claim 1 above, and further in view of Muyres et al. (U.S. Publication No. 2001/0010046). Claim 12 is dependent from independent claim 1. Therefore, for the remarks presented above with respect to claim 1, the rejection of claim 12 should be withdrawn.

AMENDMENT AND RESPONSE UNDER 37 CFR § 1.116 – EXPEDITED PROCEDURE   Page 5
Serial Number: 09/973,664   Dkt: 1565.039US1
Filing Date: October 9, 2001
Title: SYSTEM AND METHOD FOR CONTROLLING ACCESS TO LICENSED COMPUTING PROCESSES VIA A CODIFIED ELECTRONIC LICENSE

Claims 13 and 14 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Haruki and Goldick as applied to claim 1 above, and further in view of Carter et al. (U.S. 6,219,652). Claims 13 and 14 are dependent from independent claim 1. Thus, for the reasons presented above with respect to claim 1, the rejections of claims 13 and 14 should be withdrawn.

Claims 16-21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Haruki and Goldick as applied to claim 15 above, and further in view of Misra et al. Claims 16-21 are dependent from independent claim 15. Thus, for the reasons presented above with respect to claim 15, the rejections of claims 16-21 should be withdrawn.

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' attorney (513) 942-0224 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.
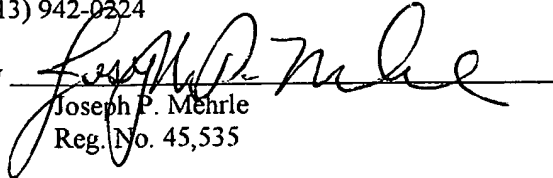
Respectfully submitted,

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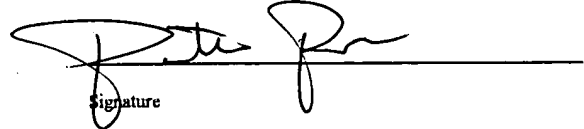   Joseph P. Mehrle
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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop AF, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this __1__ day of June, 2005.

Peter Robertson   _____
Name   Signature